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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,468	01/21/2004	Casimir J. Wojtaszek	CJW-03-001	4387

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Casimir J. Wojtaszek
267 Thompson Ave.
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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,468

Applicant(s)

WOJTASZEK, CASIMIR J.

Examiner

Alexandra K Pechhold

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date filed 1/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: in line 9 it appears that "support two" should be "two support". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-3, 6, 9-11, 13, 14, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Crone (US 2,858,749).**

Regarding claim 1, Crone discloses a concrete section joint device comprising:

- at least two support components, seen as U-shaped saddles (20) (Col 2, lines 31-41 discloses that there are multiple saddles since each saddle is part of one of many units), shaped for holding an expansions joint,
- at least two rods, seen as rods (37), attached to the at least two components
- wherein the rods are substantially parallel to each other, as shown in Fig. 3, and the at least two support components are in planes substantially parallel to each other and the rods are approximately perpendicular to the parallel planes, as shown in Fig. 1-3.

Regarding claims 2, 3, and 6, Crone discloses that the units are preferably made of rod stock (Col 2, line 37).

Regarding claims 9-11, Crone discloses in column 2, lines 31-41 that there are multiple saddles since each saddle is part of one of many units.

Regarding claim 13, Crone discloses a process in column 2, lines 31-41 in disclosing positioning the supporting units before pouring the concrete, wherein the device comprises at least two support components and at least two rods recited, as discussed with respect to claim 1 above.

Regarding claim 14, Crone discloses in column 2, lines 31-41 that there are multiple saddles since each saddle is part of one of many units.

Regarding claim 16, Crone discloses that web (12) can be of any suitable material but that it has to yield sufficiently (Col 2, lines 3-11), which characteristically is an elastomeric material.

Regarding claim 17, Crone discloses the limitations of the claimed invention as discussed with respect to claim 1 above. Furthermore, Crone discloses a concrete slab as seen by (10, 11) in Fig. 1.

Regarding claim 18, Crone discloses that the units are preferably made of rod stock (Col 2, line 37).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 5, 7, 8, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crone (US 2,858,749).

Regarding claims 4, 5, 7, and 15, Crone discloses that the units are preferably made of rod stock (Col 2, line 37), though fails to disclose steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the rod stock of Crone be steel, since rod stock is usually formed from steel, due to its durability and strength characteristics.

Regarding claim 8, Crone fails to disclose the diameter of the at least two support components and the rods. Crone discloses that the units are preferably made of rod stock (Col 2, line 37), though fails to disclose steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the rod stock of Crone be steel and the at least two support components to be 3/16 inch diameter and the rods to be 7/16 inch diameter, since rod stock is usually formed from steel, due to its durability and strength characteristics, and it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 12, Crone discloses the limitations of the claimed invention as discussed with regards to claim 1 above, and furthermore discloses at least five support components since Crone discloses in column 2, lines 31-41 that there are multiple saddles since each saddle is part of one of many units. Crone fails to disclose the

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diameter of the at least two support components and the rods. Crone discloses that the units are preferably made of rod stock (Col 2, line 37), though fails to disclose steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the rod stock of Crone be steel and the at least two support components to be 3/16 inch diameter and the rods to be 7/16 inch diameter, since rod stock is usually formed from steel, due to its durability and strength characteristics, and it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crone (US 2,858,749) as applied to claim 17 above, and further in view of Montryn (US 4,875,801).

Regarding claim 19, Crone fails to disclose a sidewalk, instead disclosing a highway. Montryn discloses in column 1, lines 5-10 that the expansion joint is for the concrete slabs of driveways, sidewalks and the like. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the concrete slab of Crone to be part of a sidewalk as taught by Montryn, since Montryn states in column 1, lines 5-10 that expansion joints can be for concrete slabs of driveways, sidewalks and the like.

Regarding claim 20, Crone discloses a plurality of concrete slabs.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
2/7/05